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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,101	09/17/2002	Tim Keller	19441-0009 (GE #124278)	6163
29052	7590	06/23/2004		
SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309			EXAMINER CASAREGOLA, LOUIS J	
			ART UNIT	PAPER NUMBER
			3746	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,101

Applicant(s)

KELLER, TIM

Examiner

Louis J. Casaregola

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/30/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 2, 19, 28-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 12, 14-18, 22-24, 27 is/are rejected.
- 7) ☒ Claim(s) 3-11, 13, 20-21, 25-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election

In the last Office action, applicant was required to elect between respective method and apparatus Groups I and II, and to further elect an individual species correspond to a baseline speed that is either a constant or a function of ambient conditions. In his latest response, applicant has elected method Group I but has failed to clearly elect an individual species. Applicant never actually identifies the elected species but merely lists claims which allegedly correspond to that species. Listed claims 1, 3-19, and 21-27 however cover both species; claim 3 is directed to a baseline speed that is a function of ambient conditions, and claim 19 is directed to a baseline speed that is a constant.

Applicant's representative, Mr. Russell Korn, was contacted by telephone on 6/18/04 and revised the elected claim list such that all listed claims now read on the species with a baseline speed that is a function of ambient conditions. The revised claim list consists of claims 1, 3-18, and 20-27.

It is additionally noted that applicant has traversed the restriction and species election requirements based on his assertion that examination of all the inventions would not be an undue burden since the searches for these inventions are related. It is pointed out however that, contrary to what applicant suggests, the examination burden is not limited exclusively to a prior art search but also includes the effort required to apply the art by making and discussing all appropriate grounds of rejection. Multiple

inventions, such as those in the present application, normally require additional reference material and further discussion for each additional invention examined. Concurrent examination of multiple inventions would thus typically involve a significant burden even if all searches were coextensive.

For the reasons discussed above, the restriction and species election requirements are considered proper and are consequently made final. An action on the merits of elected claims 1, 3-18, and 20-27 is set forth below, and non-elected claims 2, 19, and 28-40 are withdrawn from further consideration.

Claim Rejections - 35 USC § 102

Claim 1 is rejected under 35 U.S.C. § 102(b and/or e) as being anticipated by either Rowen et al or Ellims et al.

The claimed turbogenerator control method reads on the operation of conventional turbogenerator plants of the type disclosed by Rowen or Ellims. Attention is called for example to Rowen's Figure 2; note that a turbine speed set point is determined by unit 49 in response to a number of input parameters and adjustments including preselected load and spinning reserve. The set point as determined according to preselected load corresponds to the claimed baseline speed set point and the spinning

reserve input corresponds to the claimed speed offset adjustment for providing a transient reserve capability.

Ellims discloses a further similar system; see Figure 2 and note that operator input speed signal 24 corresponds to the claimed baseline speed, and "load coming" signal 42 corresponds to the claimed speed offset adjustment for providing a transient capability.

Claims 12, 14-18, 22-24 and 27 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rowen et al as discussed above and with further comment.

With regard to claims 12, 16, 18, and 22 the claimed trimming step is sufficiently broad to read on any further adjustment of the speed set point such as, for example, the droop adjustment provided by Rowen's element 62. Note also that element 62 performs a calculation on load feedback 60, which is consistent with the requirements of claims 16 and 22.

With respect to claims 14, 15, 23, and 24, various statements to the effect that the adjusted speed set point prevents the turbogenerator from exceeding operational limits, optimizes operation, and/or increases efficiency do not define further method steps but merely set forth desired goals or results, which would be consistent with the normal purpose of any set point adjustment system including Rowen's.

As concerns claims 17 and 27, note that the Rowen's element 66 determines speed error 68 by subtracting actual speed 67 from adjusted speed 65. Note also that


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the claimed speed control algorithm is sufficiently broad to read on any or all of the operations performed by elements 67, 71, and 80.

Allowable Subject Matter

Claims 3-11, 13, 20, 21, 25, and 26 contain allowable subject matter but are objected to as depending from rejected parent claims. If rewritten in independent form, these claims will be allowed. Allowance of this case is further contingent upon cancellation of all non-elected claims.

L. J. Casaregola
703-308-1027 (M-F; 7:30-4:00)
703-872-9306 FAX
June 21, 2004


LOUIS J. CASAREGOLA
PRIMARY EXAMINER

If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached at 703-308-2675.

Information regarding the status of this application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR, and status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).